



OVERSIGHT COMMITTEE ON QUALITY OF CARE IN NURSING HOMES

Chair: Sue Fryer Ward, Secretary of Aging

Appointed by Governor: Elliott D. Cahan; Melanie P. Cox; Ernest B. Crofoot; Muriel E. Foos; Mary C. Naugle; Margaret D. Richards; Marjorie D. Taylor.

Appointed by Senate President: Michael J. Collins; Arthur Dorman; Paula C. Hollinger; Leonard H. Teitelbaum.

Appointed by House Speaker: Charles R. Boutin; Peter A. Hammen; Katherine Klausmeier; Shirley Nathan-Pulliam.

Ex officio: Georges C. Benjamin, M.D., Secretary of Health & Mental Hygiene.

Staff: Stephanie A. Garrity, Dept. of Aging (410) 767-1112
Shirley A. Devaris, Dept. of Legislative Services (410) 946-5510, (301) 970-5510
David A. Smulski, Dept. of Legislative Services (410) 946-5350, (301) 970-5350

c/o Office of Secretary
Dept. of Aging
301 West Preston St., Suite 1007
Baltimore, MD 21201
(410) 767-1102
e-mail: ptc@mail.ooa.state.md.us

Annual Report to Governor & General Assembly due Dec. 1.

Formed in October 2000, the Committee evaluates progress in improving the quality of nursing care statewide (Chapter 216, Acts of 2000). The Committee also monitors and evaluates implementation of recommendations made by the Task Force on Quality of Care in Nursing Facilities in its report of December 1999 (Chapter 382, Acts of 1999).

From the Department of Health and Mental Hygiene, the Deputy Secretary of Health Care Financing reports annually to the Committee on the status of the Medicaid Nursing Home Reimbursement System. Biannually, the Office of Health Care Quality in the Department of Health and Mental Hygiene reports to the Committee on implementation of the recommendations of the Task Force on Quality of Care in Nursing Facilities, and the status of quality of care in nursing homes. In the process of reviewing these reports, the Committee develops further proposals on how to improve nursing home care.

Maryland Constitutional Offices & Agencies

Maryland Departments

Maryland Independent Agencies

Maryland Executive Commissions, Committees, Task Forces, & Advisory Boards

Maryland Universities & Colleges

Parris N. Glendening
Governor

Kathleen Kennedy Townsend
Lt. Governor



Sue Fryer Ward
Secretary

James Macgill, Jr.
Deputy Secretary

301 West Preston Street, Suite 1007 • Baltimore, Maryland 21201-2374
410-767-1100 • FAX 410-333-7943 • 1-800-AGE-DIAL (1-800-243-3425) • TTY 410-767-1083
www.mdoa.state.md.us

March 6, 2001

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H-107 State House
Annapolis, Maryland 21401

Dear President Miller:

To comply with Senate Bill 698 and House Bill 748, passed during the 2000 legislative session, the following is the required annual report of the Oversight Committee on Quality of Care in Nursing Homes for activity from October 1, 2000 through December 31, 2000. The committee met three times during this period - October 25th, November 20th and December 18th.

As there were no finding and recommendations to report as of December 31, 2000, highlights from each meeting are attached for your review. Should you require additional information, please do not hesitate to contact Stephanie Garrity, Oversight Committee staff, at 410-767-1112, 1-800-243-3425x1112 or sag@mail.ooa.state.md.us.

Sincerely,

Sue Fryer Ward
Secretary

cc: The Honorable Parris N. Glendening, Governor
The Honorable Casper R. Taylor, Jr., Speaker of the House
Department of Legislative Services Library

Nursing Home Oversight Committee Meeting 10/25/00

Members Present: Secretary Ward, Senators Collins and Dorman, Delegate Boutin, Carol Benner, Margaret Richards, Marjorie Taylor, Melanie Cox, Elizabeth Boehner, Margaret Bradford, Cass Naugle, Murt Foos

Staff Present: Mike Lachance, Joanne Wickstrand, Shirley Devaris, Dave Smulski, Stephanie Garrity

Handouts: Agenda, Member list, Task Force report, summary of legislation, OHCQ report

Planning for Future Committee Meetings: Most members expressed a preference for afternoons. Meetings should not be scheduled on regular hearing dates for legislative committees or on Tuesdays. Senator Collins stated that the committee should not meet too often but it is important for the committee to meet as often as necessary to follow the implementation of the legislation passed last year. Senator Collins does not object to studying other issues but the committee should focus on the legislative mandate. It was suggested to meet every two months except for during the session or perhaps five times per year, excluding the session period. General discussion suggested that the committee wait until the end of today's meeting to decide meeting frequency.

Ombudsman Initiative Implementation: Stephanie Garrity updated the committee on HB 764/SB 865, which increased the minimum staffing for the Long Term Ombudsman Program to be the greater of 1) one ombudsman per 1000 beds (this number includes assisted living beds, 2) 20 hours per week per area agency on aging or 3) 10 hours of ombudsman time per week per nursing home. The Ombudsman Program will be fully funded over the next three years with \$500,000 in the supplemental budget for FY 2001. Of this \$500,000, \$450,000 has been made available to area agencies via a competitive grant process. MDoA received proposals from all 19 area agencies on aging. The intent of the legislation was to fully fund several local ombudsman programs with the first \$450,000. Baltimore County, MAC, Inc. (Dorchester, Somerset, Wicomico and Worcester Counties) and Prince George's County area agencies on aging received the first round of funds. These jurisdictions house 33% of Maryland's nursing homes. To date, MAC, Inc. has hired two full time Ombudsmen, Prince George's County is interviewing for new hires and Baltimore County needs county council approval for the new positions before hiring can begin. Senator Collins hopes that the funds will concentrate on nursing homes as assisted living is another issue that may need to be tackled separately.

Office of Health Care Quality Implementation Update: Carol Benner provided each committee member and staff with a notebook containing her report and presentation. The notebook is hereby incorporated in these notes by reference. Highlights of her report are as follows.

Maryland has participated in three hearings in DC before the Senate Subcommittee on Aging. There is a three volume, 900 page report by HCFA on nursing home staffing. President Clinton is calling for an additional \$1 billion of federal funds for staffing. This money will probably go to states that are below the preferred ratio of staff for direct care. HCFA is doing a second staffing study for recommendations to Congress for solving staffing problems.

The HCFA study based on OSCAR and MDS data indicates that Maryland exceeds the national average in the hours of nursing and CNA staff time per nursing home resident.

The GAO report of September 2000 (a follow up to the March 1999 report) indicates that Maryland has improved by decreasing the predictability of nursing home surveys, increasing the number of "actual harm" deficiencies discovered and increasing the number of complaints investigated within 10 days of occurrence.

Patient acuity levels are higher in Maryland. Two GAO payment and bankruptcy reports no longer support capital expansion. According to GAO facilities are adequate for service. A Third GAO report on 9/28/00 follows up on Maryland and shows improvement with the complaint and inspection process.

In FY 2000 all health surveys were completed, as required by HCFA. OHCQ still has not been able to do second surveys of all nursing homes because of the shortage of surveyors.

Of the 40 new positions, one was converted into another classification leaving 59 surveyor slots. Forty two nurses have been hired. OHCQ is interviewing for dieticians as well. Having difficulty in hiring more surveyors. Nurses can find better paying jobs. In the last few months OHCQ has made 26 job offers and only one was accepted. Because hospitals are offering better pay many nurses are staying where they are. There followed a discussion about the nursing shortage and why it was impossible to fill the slots. There are State standards for surveyors as well as federal standards. All must pass a federal test before they are qualified surveyors

A suggestion was made that if possible the surveyor slots should be filled with non-nursing personnel and that Maryland should look into what other states are doing. A team concept may help. We need to look into solving the shortage of surveyors for hire. Might be able to use home health aides or use some level of peer review. The problem also needs to be addressed with HCFA. Carol Benner agreed to take this suggestion under advisement. She commented that it may be able to recruit surveyors from other areas. There is a need to solve the problem.

OHCQ is working on a final version of the regulations to implement last year's legislation. The industry has seen the regulations and has provided recommendations. Committee members who have comments or suggestions on the regulations should contact David Smulski no later than October 31, 2000.

Issues for Study by the Oversight Committee: Secretary Ward asked the committee to review the list of issues and be prepared to prioritize them for the next committee meeting.

Next Meeting: Senator Collins suggested that the committee meet monthly for awhile because of the need to approve the OHCQ draft regulations. The next meeting will be November 20, 2000 at 1 pm. If possible, the Committee would like to use the same meeting room.

Nursing Home Oversight Committee Meeting 11/20/00

Members Present: Secretary Ward; Senators Collins, Dorman, Hollinger and Teitelbaum; Delegates Boutin and Nathan-Pulliam; Carol Benner; Margaret Richards; Marjorie Taylor; Melanie Cox; Elizabeth Boehner; Margaret Bradford; Cass Naugle; Elliott Cahan; Ernie Crofoot; Charles Fisher

Staff Present: Mike Lachance, Joanne Wickstrand, Shirley Devaris, Dave Smulski, Stephanie Garrity

Handouts: Agenda 11/20; Minutes from 10/25 Oversight Committee Meeting; member list; nursing home survey reports news article; copy of slides, "Long Term Care Chart Book" and "Nursing Home Environmental Assessment" from MD Health Care Commission

Presentation by Pam Barclay and Linda Cole, MD Health Care Commission - "Environmental Assessment: Nursing Home Industry Issues and Trends"

In conducting the assessment, the MD Health Care Commission (MHCC):

- looked at profiles of nursing homes and profiles of the elderly population;
- considered state and federal reimbursement issues;
- looked at quality of care issues; and
- looked at the future direction of long term care from an industry and public policy perspective.

The assessment attempted to find types of individuals who use long term care facilities. Ms. Barclay reviewed current demographics of the population in nursing homes and projected demographics using MHCC findings as a predictor. Most figures reflect findings through 1997. More recent data are being studied and will be available soon.

It is estimated that there will be 925,000 elderly over age 65 in Maryland by the year 2020.

At present, 11% of the population in Maryland is over 65 years of age. The percentage is expected to reach 16% by 2020.

Nationally, disability levels are declining as is the case in Maryland.

Ms. Barclay described characteristics of a typical nursing home resident. An average resident is:

- 80.6 years old;
- female;
- white of non-Hispanic origin;
- widowed;
- admitted from an acute general hospital;
- in need of a moderate level of care upon admission; and
- is likely to stay an average length of 257 days; median length of stay is 22 days.

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This typical profile is based on discharge data and includes subacute care facilities where the length of stay is much shorter and there is a larger turnover of patients. There are about 40 subacute care facilities in Maryland. A lengthy discussion followed because the committee challenged the average length of stay. Ms. Barclay was asked to break out the figures for subacute care to be able to more clearly define an average length of stay. One member said that the longest length of stay that she knows of in Maryland was for a period of 20 years.

The committee also requested a breakdown of ages by level of care.

Subacute care means short term intense special care and is comparable to a step down unit. It requires a higher level of care than the usual comprehensive care received in a nursing home and is not long term. It is a subclass of comprehensive long term care. Subacute care beds are licensed as long term comprehensive care beds.

There followed a discussion of occupancy trends (Page 10 of the slides). These trends reflect changes in services such as assisted living and CCRC facilities that allow for aging in place.

The Certificate of Need process for nursing homes is still being studied. A report will be submitted to the General Assembly by January 1, 2001.

Nursing Home Survey Reports

An article appeared in the Sun that revealed that nursing home survey reports are being filed in county libraries with the names of patients on them. This is a violation of confidentiality. The Office of Health Care Quality (OHCQ) and the Department of Aging (MDoA) had no knowledge that this breach in confidentiality was happening. Some of the reports are decades old. Many of the reports showed signs of never having been used (dust, aging paper, etc). Survey reports are made available to the main library and sometimes one other library in each county in order to assist people in choosing a nursing home. The OHCQ and MDoA immediately implemented a plan of correction. The records are going through a "redacting" process whereby the names are inked out, the records are copied and then refiled by the library. The libraries were asked to discard old records as they are no longer useful for the purpose intended. Some libraries complied and some would not.

Secretary Ward announced that she was shocked to find that the information had been made public. Ms. Benner said that most of the names were on the plan of correction that was submitted with the original survey. The surveys went through several different processes before being released to the libraries and no one caught the mistakes. The reports go through OHCQ, to MDoA and sometimes to the local Ombudsman before going to the library.

The OHCQ is looking into a way to make the information available on line. Medicare has a

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website for survey results but many of them are outdated and do not take into consideration the corrective plans that have been implemented. It takes about 6-9 months for HCFA to place the survey information it receives from the states on its website.

The OHCQ is considering a variety of ways to make the survey information available to the public. Information can be put on the website but the problem is trying to find a way to include the plan of correction. Pennsylvania is one state that puts survey information on a website and goes back later to note that a plan of correction has been accepted. It does not describe the plan. It may be possible to refer people to the Medicare website.

In Maryland it takes about 2 working days to get a survey result to the library after it is reviewed by MDoA.

Senator Collins requested that we pursue putting the survey reports on line as well as placing the reports in local newspapers.

Monitoring the Implementation of the Task Force Recommendations

Senator Collins wants to hear from the OHCQ at each meeting of the Oversight Committee. He emphasized the need to follow the mandate given to the committee: i.e. the implementation of the legislation passed during the 2000 session.

OHCQ reported that there were very few comments on the Regulations. The committee voted to go forward with the Regulations. OHCQ expects the regulations to be ready by January 1, 2001 and they will be submitted on an emergency status. Carol Benner plans to submit the regulations for medical director on a non-emergency status in April. OHCQ wanted to hold back until April on implementing the requirement that each nursing home get a medical director. One committee member commented that the hiring of the medical director would have a negative economic impact on the nursing homes. The homes wanted more time. Some committee members expressed disagreement with this. Many of the subjects covered by the regulations are now a federal requirement.

Second surveys started on November 1, 2000. Because of the inability to hire more surveyors, OHCQ may not be able to do two surveys of each home every year. That remains a goal, however. Surveys are unannounced. There have been no new surveyor hires since the last oversight committee meeting (twenty-six people have been offered surveyor positions but only one accepted). OHCQ is waiting for the federal allocation in order to hire ten more surveyors. Language in the enabling legislation requires that the State must receive its federal allocation before it can hire more surveyors. There are 39 full-time surveyors now. Fifteen of the 39 have yet to be federally-tested. Surveyors are being hired at a Grade 18. The committee asked how many surveys can be done each year with current staff. The OHCQ is doing all the initial surveys, investigating all complaints and doing all the follow-up surveys. It does not have staff

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to do much more than that.

Training for a surveyor now takes 1.5 years. A discussion followed about shortening this training time. Nursing homes do not want new surveyors and OHCQ is sending an experienced surveyor out with a new one because of the industry's preference. Some discussion followed about the appropriateness of that.

OHCQ has started interviewing for someone to fill the technical assistance unit position created by last year's bill. OHCQ has to make a budget request for the funds. This program will be funded out of money received from fines.

Prioritizing Issues for Study by the Oversight Committee

All committee members were asked to rank the five most important nursing home issues from the list provided. The results will be compiled and presented at the next Oversight Committee meeting.

Public Comment

No public comments were offered.

Next Meeting

Mark Leeds, Director of Long Term Care and Community Support Services, DHMH, will present at the next meeting on UMBC's study on nursing home level of care issues.

A discussion about how frequently the committee should meet followed. It was decided to make that determination later. Suggestions included meeting without the legislators during session; holding the meetings late in the day during session to allow the legislators to attend; holding meetings monthly; and not holding meetings during the legislative session.

It was decided that the next meeting will be on December 18. Secretary Ward asked for and was granted permission by the legislators to start without them. Today's meeting was delayed until most of the legislators arrived.

Nursing Home Oversight Committee Meeting 12/18/00

Members Present: Secretary Ward; Senators Collins, Dorman, Hollinger and Teitelbaum; Delegate Boutin; Carol Benner; Margaret Richards; Melanie Cox; Elizabeth Boehner; Margaret Bradford; Cass Naugle; Elliott Cahan; Ernie Crofoot; Charles Fisher

Staff Present: Mike Lachance, Joanne Wickstrand, Shirley Devaris, Dave Smulski, Stephanie Garrity

Handouts: Agenda 12/18; Minutes from 11/20 Oversight Committee Meeting; Nursing Home Reimbursement Workgroup report and accompanying letter from MANPHA; Nursing Home Task Force recommendations; priority areas for study by the Oversight Committee; information on electronic monitoring provided by Delegate Hecht.

Presentation by Mark Leeds, Director, Long Term Care and Community Support Services, Department of Health and Mental Hygiene (DHMH) - "Report of the Medicaid Nursing Home Reimbursement Study Group"

Mr. Leeds opened with a review of last year's legislation giving additional Medicaid dollars to a nursing home's nursing cost center and discussed the key findings of the report. Medicaid reimbursement to nursing homes averages \$130 per day, of which an average of \$63 per day is for nursing. The Reimbursement Study Group recommends using the existing rates as a base and adding the additional \$20 million in FY 2002 and another \$20 million in FY 2003. The result is a \$3.45 average per patient day rate increase in FY 2002 and by FY 2003, the cumulative rate increase would average \$6.90 per patient day. Cost settlement will occur at the end of the two year period. The legislation prohibits any of the additional dollars to go to nursing home profits.

In the existing reimbursement formula profits are capped at 5%. Nursing homes can still earn profits but not off the additional \$40 million. The work group continues to work with the nursing home liaison committee. Mr. Leeds will report back to the Oversight Committee after the FY2002 budget is set. Senator Collins requested that the future presentation include a break out of federal dollars in nursing homes. Mr. Leeds also responded that Activities of Daily Living (ADLs) do not take into account the cost of behavioral management, but the rates do even out. Nursing home agency personnel increase wages, which could show up in the Wage Survey. The nursing home reimbursement formula does not directly deal with the issue of agency personnel. Mr. Leeds will present data on the use of temporary staff at the next meeting.

Monitoring the Implementation of the Task Force Recommendations

Carol Benner, Director DHMH's Office of Health Care Quality (OHCQ), provided an update on the Office's activity. Future updates from OHCQ will be provided to the Oversight Committee in writing. There are currently 60 survey staff in place, up from 33 at last report, and by July 2001, the unit will have 73 staff. Much of the Office's time recently was spent relocating 33 patients from a closing nursing home. The second round of inspections have started; there have been six inspections to date. The Office has conducted two trainings in the last month for MANPHA and HFAM. The draft quality assurance regulations are in the DHMH "pipeline" and will be forwarded to AELR soon.

Nursing Home Oversight Committee Minutes

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Secretary Ward asked that committee members review the Task Force recommendations and bring their thoughts to the next meeting as to which recommendations should be studied.

Review of Prioritized Issues for Study by the Oversight Committee

The oversight committee next discussed its selected prioritized issues. The oversight committee talked about:

- looking into certified nursing pay rates, and also agency and nursing staff ratios;
- getting involved with the Crisis in Nursing Commission (Senator Hollinger suggested that the Oversight Committee testify before the Commission; Stephanie Garrity will follow up with the Commission);
- interfacing with the Nursing Home Report Card workgroup (it was suggested that the committee wait until after the workgroup issues its report);
- tracking the \$40 million in additional Medicaid funds (Mr. Leeds will report on this at future committee meetings);
- alternatives to traditional nursing home inspections to include what nursing homes can do to improve quality, the Frederick County initiative, technology, electronic monitoring, etc;
- mental health issues in nursing homes; and
- hearing about the MANPHA effort to share best practices among committee members.

Elliott Cahan asked how much RN, LPN and CNA wages have changed over time. Senator Hollinger stated that career ladders outside of CNA ranks may not be attractive to CNAs as they perceive they may be giving up the direct patient care that originally attracted them to CNA work. Mr. Cahan suggested that MANPHA address the Committee at a future meeting on career ladder models. Margaret Richards stated that Johns Hopkins Geriatric Center is working with nurse delegating models now. Margaret Bradford thought that civil money penalties could be used to fund model projects. Secretary Ward asked what happened to candy strippers. Ms. Richards stated that there are more career options for women today.

A question arose about the difference in GNA and CNA designations. The GNA is the federal designation which runs for two years; this is paid for by nursing homes. CNA is a Maryland designation for one year only. HFAM and MANPHA will submit letters to OHCQ outlining the discrepancies. Ms. Benner and the Board of Nursing will then work on correcting these problems.

Nursing Home Oversight Committee Meeting

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Ms. Benner mentioned, because of strict guidelines, federal civil money penalties have limited use. The ability to use State civil money penalties is more flexible. Also it is very unlikely that HCF will change its survey process, so the State only has flexibility with its second survey.

Future Agenda Items

The following agenda items were suggested: quality of care models at the January meeting, legislation review at January and February meetings, mental health issues, and elder care issues in Japan (Senator Hollinger's trip to Japan).

Public Comment

There were no comments from the public.

Next Meeting

The next meeting of the Oversight Committee will be on Wednesday, January 24, 2001 at 3pm. The meeting place will be announced at a later date.

Parris N. Glendening
Governor

Kathleen Kennedy Townsend
Lt. Governor



Sue Fryer Ward
Secretary

James Macgill, Jr.
Deputy Secretary

301 West Preston Street, Suite 1007 • Baltimore, Maryland 21201-2374
410-767-1100 • FAX 410-333-7943 • 1-800-AGE-DIAL (1-800-243-3425) • TTY 410-767-1083
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December 17, 2001

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H-107 State House
Annapolis, Maryland 21401

Dear President Miller:

To comply with Senate Bill 698 and House Bill 748, passed during the 2000 legislative session, the following is the required annual report of the Oversight Committee on Quality of Care in Nursing Homes for activity from January 1, 2001 through December 15, 2001. The committee met five times during this period - 1/24/01, 2/14/01, 5/31/01, 9/25/01, and 11/15/01. Highlights from these meetings are attached for your review. The Committee has scheduled another meeting for 12/20/01.

The primary function of the Oversight Committee is to "monitor and evaluate implementation of the recommendations of the Task Force on Quality of Care in Nursing Facilities...and relevant legislation enacted subsequent to the recommendations of the Task Force." I am happy to report that 90% of the original Task Force recommendations (31 of 34) have been implemented, either by legislation or policy (see attached recommendations grid). The Oversight Committee will continue to monitor: 1) the effectiveness of those recommendations that were implemented and 2) the progress of those recommendations that have yet to be completed.

Echoed consistently at Oversight Committee meetings by both nursing home industry representatives and patient advocates are the continuing challenges presented by the Medicaid

Letter to President Miller

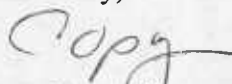
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reimbursement system and the shortages in direct care staffing. The Oversight Committee will continue to study these issues along with others such as the quality of mental health treatment for nursing home residents.

Should you require additional information, please do not hesitate to contact Stephanie Garrity, Oversight Committee staff, at 410-767-1112, 1-800-243-3425x1112 or sag@mail.ooa.state.md.us.

Sincerely,



Sue Fryer Ward
Secretary

cc: The Honorable Parris N. Glendening, Governor
The Honorable Casper R. Taylor, Jr., Speaker of the House
Department of Legislative Services Library

Nursing Home Oversight Committee Meeting 01/24/01

Members Present: Secretary Ward; Delegates Boutin and Nathan-Pulliam; Carol Benner; Melanie Cox; Cass Naugle; Elliott Cahan; Ernie Crofoot; Charles Fisher; Murt Foos

Staff Present: Mike Lachance, Shirley Devaris, Stephanie Garrity

Handouts: Agenda 1/24/01; Minutes from 12/18/00 Oversight Committee Meeting; charts on use of temporary workers; summary of UMBC report; three handouts from Delegate Hecht; two folders from MANPHA; article from M. Foos.

Secretary Ward opened the meeting by encouraging members to forward any corrections to the 12/18/00 minutes to Stephanie Garrity. She also commended Ernie Crofoot for his cogent presentation about Oversight Committee activity at the United Seniors of MD Rally.

Follow Up by Mark Leeds, Director, Long Term Care and Community Support Services, Department of Health and Mental Hygiene (DHMH) - "Use of Temporary Workers"

As requested by the Oversight Committee, Mr. Leeds created a chart of temporary staff usage in nursing homes with 1999 data. He can report on the use of temporary staff using 2000 figures at a future Oversight Committee meeting. Shirley Devaris suggested that comparing this data with data from years past may be helpful in analyzing the nursing shortage. Mr. Leeds will look into this. Melanie Cox stated that agency accountability to nursing homes is difficult and that maybe the Oversight Committee might be able to help the industry improve on this.

Presentation by John Kaelin, Director, The Center for Health Program Development and Management, UMBC - "Medicaid Level of Care Eligibility Issues"

Mr. John Kaelin and Mr. Mike Nolan from UMBC summarized the study. Maryland's level of care process is not more restrictive when compared with other states (Arizona, Colorado and Florida). Other states are using functional criteria in assessing level of care but are also using an inflexible scoring system. Maryland's system seems to be more flexible, allowing for the raters to use their own judgement while working within a framework of general definitions and guidelines. Improvement options in determining the appropriate level of care in MD include: 1) expanding the assessments of ADLs and IADLs and cognitive impairments; 2) testing the consistency of the screening process; 3) linking the assessment process to care planning and 4) enhancing assessment predictability and public confidence.

(2/8/01 - at Cass Naugle's request, Mark Leeds from DHMH was asked what would happen next with the results from the UMBC study. He responded that DHMH will use UMBC's results to make a policy decision.)

Presentation by MANPHA - "Update on Current Quality Initiatives in Maryland"

Ms. Isabella Firth, President, reviewed the contents of the MANPHA folder of handouts. MANPHA is committed to forwarding proactive approaches in defining quality of care. MANPHA's Beacon Institute provides ongoing support and training. MANPHA also promotes the American Medical Directors Association practice guidelines. Elliott Cahan briefly reviewed legislation that MANPHA is supporting. Delegate Boutin asked how many other states are using the clinical practice guidelines. Ms. Cox said that Texas was the only state. Delegate Boutin asked if these guidelines should be mandated. Ms. Firth said no because the industry is already

over-regulated Delegate Boutin asked if the labor shortage will hinder the adoption of the practice guidelines. Both Ms. Firth and Mr. Cahan hoped these changes would attract quality people.

Mr. Ron Rothstein, Administrator at Levindale and Ms. Martha Nathanson, Director of Government Relations at Life Bridge Health presented on the Eden Alternative. A quality of care initiative that offers nursing home residents close and continuous contact with children, plants and pets. Since the adoption of the Eden Alternative at Levindale, staff turnover rates have dropped from 29% in July, 2000 to 21% in December, 2000.

Secretary Ward asked that the rest of MANPHA's presentation continue after the Presentation on electronic monitoring.

Presentation by Delegate Sue Hecht and Violette King, Nursing Home Monitors -

"Electronic Monitoring" Delegate Hecht related to the committee her personal experience with a nursing home and how video monitoring may help her situation. Violette King from Nursing Home Monitors in Illinois was asked by Delegate Hecht to give testimony. Electronic monitoring legislation is needed. Families are afraid of repercussions if they put in video cameras on their own. Senator Grasseley's Special Committee on Aging wanted a demonstration project using video monitoring. There is presently no demonstration project.

According to Ms. King, the industry is opposed to electronic monitoring for two reasons: 1) they think that cameras would be used to catch them doing wrong and 2) an increase in liability insurance may result. Ms. King said that other industries use cameras for surveillance. Cameras might eliminate "dead wood" staff. Staff are afraid to report the abuse that they see; cameras would "see" these problems. Ms. King said that Illinois is currently looking for a test case - a family who will put in a camera and then legally fight the camera's removal.

The cost of equipment ranges from \$3500 for video-televised phone call to \$59 for a monitor that's used within 300 feet of the facility.

Delegate Hecht has introduced legislation calling for nursing facilities to permit families to set up monitoring equipment in their loved one's room.

Presentation by MANPHA- "Update on Quality Initiatives in Maryland" (continued)

Scott Richardson and Katie DeSocio from Asbury Methodist Village in Montgomery County reviewed their facility's Standards of Service and Hospitality: 1) the Customer Program (a customer satisfaction system), 2) BASICS (12 steps to providing excellent customer service), 3) Asbury University (system for continuing education) and 4) agency values. Mr. Richardson may be able to share with the Oversight Committee five years of data that track the employees' satisfaction with their work experience.

Future Agenda Items

The February meeting agenda will be a review of current legislation that may have an impact on

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the Task Force recommendations.

Public Comment

Secretary Ward distributed a letter from a constituent (Mr. Ralph Jaffe), who wants the staff to resident ratio to increase to one aide for every six residents.

Next Meeting

The next meeting of the Oversight Committee will be on Wednesday, February 14, 2001 at 1pm. The meeting will be held in Room 200 in the James Senate Office Building.

sg/NHOC

Oversight Committee on Quality of Care in Nursing Homes
301 W. Preston Street, Suite 1007
Baltimore MD 21201

February 16, 2001

The Honorable Clarence W. Blount, Chair, Senate Economic and Environmental Affairs Committee

The Honorable Thomas L. Bromwell, Senate Finance Committee

The Honorable Barbara A. Hoffman, Chair, Senate Budget and Taxation Committee

The Honorable Clarence M. Mitchell, IV, Chair, Senate Rules Committee

The Honorable Michael E. Busch, Chair, House Economic Matters Committee

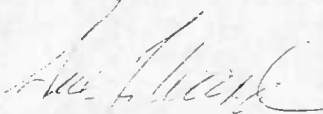
The Honorable Ronald A. Guns, Chair, House Environmental Matters Committee

Dear Senators Blount, Bromwell, Hoffman, Mitchell and Delegates Busch and Guns:

The Oversight Committee on Quality of Care in Nursing Homes has reviewed recently-introduced legislation relevant to the recommendations of the Task Force on Quality of Care in Nursing Homes and to the current work of the Oversight Committee. The attachment reflects the Oversight Committee's position on those bills. I hope you will take this information into consideration during your deliberations.

Should you have questions or concerns, please contact Stephanie Garrity, staff to the Oversight Committee, at 410-767-1112 or 1-800-243-3425x1112 or sag@mail.ooa.state.md.us. Thank you for your attention.

Sincerely,



Sue Fryer Ward
Chair

cc: Oversight Committee Membership

Attachment

Oversight Committee on Quality of Care In Nursing Facilities

Positions on Proposed Legislation Relating to Nursing Homes and/or Nursing Home Staffing

HB 236 Delegate C Davis Nursing Homes - Retention of Direct Care Nursing Staff
Requiring a nursing home with more than a 50% annual turnover of direct care nursing staff to establish a program for staff retention; requiring the use of a questionnaire; requiring a specified review twice a year; requiring a nursing home to implement corrective measures; authorizing the conditional use of data provided in the questionnaire; requiring the Secretary of Health and Mental Hygiene, in collaboration with the Board of Examiners of Nursing Home Administrators, to develop the questionnaire and manual; etc. *HG, §§ 19-1410.1-added Assigned to: Environmental Matters Committee*

The oversight committee could not reach consensus to support this bill. The reasons given in opposition are 1) redundancy, the facilities do conduct exit interviews, 2) one standardized questionnaire would not be useful, and 3) the additional record keeping cannot be shown to directly improve quality of care.

HB 433 Delegate Hecht, et al Nursing Facilities - Electronic Monitoring Requiring a related institution to permit a resident or a resident's legal representative to monitor the resident through use of video cameras or other electronic monitoring devices; requiring the related institution to provide power sources and mounting space to set up electronic monitoring devices; prohibiting a related institution from refusing to admit an individual to the related institution or removing a resident from the related institution because of a request to install an electronic monitoring device; etc. *HG, §§ 19-343.1-added Assigned to: Environmental Matters Committee*

The oversight committee does not support this bill. Consensus could not be reached to support because 1) there is evidence that employees in nursing facilities regard electronic monitoring as an invasion of privacy, 2) the tapes created could be electronically altered and taken out of context, and 3) the locus of control or ownership of the tapes is problematic when other residents are taped performing personal behaviors that are not germane to quality of care.

HB 626 Delegate Hammen Nursing Staff Agencies - Quality Oversight and Improvement
Transferring oversight of nursing staff agencies from the Board of Nursing to the Office of Health Care Quality; providing for the registration of nursing staff agencies with the Office; requiring the Office to conduct periodic site visits and surveys of nursing staff agencies; requiring the Office to ensure that specific procedures are used in each nursing staff agency; providing for the fines to be assessed on nursing staff agencies; etc. *HG, §§ 19-2001-amended and §§ 19-2002-added Assigned to: Environmental Matters Committee*

The oversight committee supports this bill.

HB 863 Delegates Shriver and Donoghue Health Care Facilities - Pain Management
Requiring health care facilities to monitor pain in patients and residents as an additional vital sign; requiring specified documentation by health care facilities; requiring the Secretary of Health and Mental Hygiene to adopt specified regulations; requiring specified health care facilities to

add pain management to a patient's bill of rights or similar document; etc. *EFFECTIVE JULY 1, 2001 HG, §§§§ 19-342 and 19-343-amended and §§§§ 19-353 and 19-3C-01-added Assigned to: Environmental Matters Committee*

The oversight committee elected not to take a position on this bill. The proposed legislation addresses pain management, which is not a topic included in the 2000 Report of the Nursing Home Task Force. Clinical treatment areas are not within the purview of this committee.

HB 889 Delegate Nathan-Pulliam, et al Labor and Employment - Nurses - Involuntary Overtime Prohibition Prohibiting an employer from requiring a nurse to work more than 8 hours in a workday or 40 hours in a workweek; authorizing an employer to require a nurse to work up to 10 hours in a day or part or all of a succeeding work shift in limited circumstances; providing that a nurse may not be considered responsible for the care of a patient beyond the nurse's prescribed work period if the nurse notifies another nurse and transfers his or her responsibility for a patient's care to a properly designated individual; etc. *LE, §§ 3-421-added Assigned to: Economic Matters Committee*

The oversight committee takes no position on this bill. The proposed legislation covers institutions beyond the purview of this committee which was to examine quality of care in nursing facilities.

HB 1051 Delegates Hammen and Doory Nurses - Certified Nursing Assistants Requiring the State Board of Nursing to maintain a nurse aid registry; requiring mandatory reporting by certified nursing assistants for specified actions; altering nursing assistant definitions; providing the Board shall adopt regulations for categories of certified nursing assistants; expanding the penalties available to the Board; expanding the listed violations; increasing the curriculum content for nursing assistant training programs; and prohibiting misrepresentation as a certified nursing assistant. *EFFECTIVE JULY 1, 2001 HO, §§§§ 8-205(a), 8-505, 8-507(a) and (g) through (i), 8-6A-01, 8-6A-05(a) through (c), 8-6A-10(a), 8-6A-14(c), and 8-703(a)-amended Assigned to: Environmental Matters Committee*

The oversight committee reached a consensus to support this bill. It corrects the problems created by overlapping time frames for renewing credentials.

SB 24 Senator Teitelbaum Income Tax - Subtraction Modification for Nurses Providing Patient Care Services in Nursing Homes Allowing a subtraction modification under the Maryland income tax for the first \$2,000 of compensation received by a registered nurse or licensed practical nurse for directly providing health-related or personal care services to individuals in a nursing home; applying the Act to tax years after 2000; etc. *EFFECTIVE JULY 1, 2001 TG, §§ 10-207(v)-added Assigned to: Budget and Taxation Committee*

The oversight committee reached a consensus to support this bill.

SB 25 Senator Teitelbaum Income Tax - Subtraction Modification - Assisted Living, Nursing Home, and Home Health Care Expenses Providing a subtraction modification under the State income tax for amounts contributed by the taxpayer on behalf of specified qualified beneficiaries for assisted living, nursing home, or home health care programs and services, not to exceed \$5,000 for each qualified beneficiary for any taxable year; and applying the Act to taxable

years beginning after December 31, 2000. *EFFECTIVE JULY 1, 2001 TG, §§ 10-208(q)-added Assigned to: Budget and Taxation Committee*

The oversight committee elected to support this bill.

SB 96 Senator Baker Higher Education - Financial Assistance - Nursing Students Allowing recipients of nursing scholarships awarded under the Economic Development Student Assistance Grants Program to receive scholarships under the Legislative Scholarship Program and the Distinguished Scholar Program. *EFFECTIVE JULY 1, 2001 ED, §§ 18-701-amended Assigned to: Economic and Environmental Affairs Committee*

The oversight committee reached a consensus to support this bill.

SB 139 Senator Della Violations of the Health - General Article - Notice to Affected Individuals Requiring the Secretary of Health and Mental Hygiene to notify individuals, their legal representatives, their physician, and other health care providers in writing when an individual is affected by a violation of the Health - General Article; providing guidelines for delivery of the written notice; requiring the entity who violates a statutory provision to pay the cost of sending the notice; permitting the Secretary to adopt regulations to implement the Act; etc. *HG, §§ 19-2001-added Assigned to: Economic and Environmental Affairs Committee*

The oversight committee decided not to take a position on this bill. There are existing requirements for notification of individuals and their representatives in federal and state regulations for nursing facilities.

SB 146 Senator Hollinger Nurses - Certified Nursing Assistants Requiring the State Board of Nursing to maintain a nurse aid registry; requiring mandatory reporting by certified nursing assistants for specified actions; altering nursing assistant definitions; providing the Board shall adopt regulations for categories of certified nursing assistants; expanding the penalties available to the Board; expanding the listed violations; increasing the curriculum content for nursing assistant training programs; and prohibiting misrepresentation as a certified nursing assistant. *EFFECTIVE JULY 1, 2001 HO, §§§§ 8-205(a), 8-505, 8-507(a) and (g) through (i), 8-6A-01, 8-6A-05(a) through (c), 8-6A-10(a), 8-6A-14(c), and 8-703(a)-amended Assigned to: Economic and Environmental Affairs Committee*

The oversight committee reached a consensus to support this bill. It corrects the problem of overlapping time frames for renewing credentials.

SB 153 Senator Teitelbaum, et al Income Tax - Subtraction Modification for Registered Nurses Returning to Nursing Allowing a subtraction modification under the Maryland income tax for the first \$5,000 in compensation received by an individual for employment in the State as a registered nurse in a hospital or related institution when the individual returns to the nursing profession after an absence of at least 3 years, as specified; applying the Act to tax years after 2000; etc. *EFFECTIVE JULY 1, 2001 TG, §§ 10-207(v)-added Assigned to: Budget and Taxation & Finance Committee*

The oversight committee reached a consensus to support this bill.

SB 154 Senator Teitelbaum, et al Income Tax - Subtraction Modification for Certified Nursing Assistants Returning to Nursing Allowing a subtraction modification under the Maryland income tax for the first \$4,000 of compensation received by an individual for employment in the State as a certified nursing assistant in a hospital or related institution when the individual returns to employment as a certified nursing assistant after an absence of at least 3 years, as specified; applying the Act to tax years after 2000; etc. *EFFECTIVE JULY 1, 2001 TG, §§ 10-207(v)-added Assigned to: Budget and Taxation & Finance Committee*

The oversight committee reached a consensus to support this bill.

SB 156 Senator Hafer Nursing Home Residents - Increase in Personal Needs Allowance Specifying the amount of the personal needs allowance for a nursing home resident who is a recipient of medical assistance; providing for an annual cost of living increase in the personal needs allowance; requiring that the personal needs allowance be deducted before computing eligible income for medical assistance; and requiring the Secretary of Health and Mental Hygiene to adopt specified regulations. *HG, §§ 15-109-amended Assigned to: Finance Committee*

The oversight committee takes no position on this bill. The proposed legislation addresses the financial interest of residents which is beyond the purview of this committee which was to examine quality of care in nursing facilities.

SB 289 Senator Hollinger, et al Health Care - Programs and Facilities - Pain Management Establishing a State Advisory Council on Pain Management; specifying the membership, terms, and purpose of the Advisory Council; requiring the Advisory Council to issue an interim report on or before September 30, 2002, and a final report on or before September 30, 2003; requiring health care facilities to establish procedures for the routine monitoring of pain; requiring the Department of Health and Mental Hygiene to adopt regulations regarding the routine monitoring of pain; providing for the termination of a portion of the Act; etc. *HG, §§§§ 13-1601 through 13-1605 and 19-348.1-added Assigned to: Economic and Environmental Affairs Committee*

The oversight committee elected not to take a position on this bill. The proposed legislation addresses pain management, which is not a topic included in the 2000 Report of the Nursing Home Task Force. Clinical treatment areas are not within the purview of this committee.

SB 297 Senator Teitelbaum, et al Income Tax - Subtraction Modification for Licensed Practical Nurses Returning to Nursing Allowing a subtraction modification under the Maryland income tax for the first \$4,000 in compensation received by an individual for employment in the State as a licensed practical nurse in a hospital or related institution when the individual returns to the nursing profession after an absence of at least 3 years, as specified; applying the Act to tax years after 2000; etc. *EFFECTIVE JULY 1, 2001 TG, §§ 10-207(v)-added Assigned to: Budget and Taxation Committee*

The oversight committee reached a consensus to support this bill.

SB 436 Senator Pinsky, et al Nursing Facilities - Rules for Establishment of a Family Council - Violations and Penalties Requiring licensed skilled or intermediate care nursing facilities to permit the establishment of a family council; establishing the duties and requirements that a nursing facility must comply with pertaining to a family council; excluding facility staff from council meetings; providing an exception allowing visitors and facility staff to attend council meetings; establishing that a specific behavior by a facility is a violation of the Act; etc.

HG, §§ 19-1410.1-added Assigned to: Finance

The oversight committee supports this bill.

SB 618 Senator Hollinger Higher Education - Nursing Scholarships - Awards Increasing the maximum annual award and the maximum total award for a nursing scholarship under the program of Economic Development Student Assistance Grants to \$4,000 and \$16,000, respectively; and increasing the maximum annual award and the maximum total award for an additional grant that may be awarded to nursing scholarship recipients under the program to \$4,000 and \$16,000, respectively. *EFFECTIVE JULY 1, 2001 ED, §§ 18-706-amended Assigned to: Economic and Environmental Affairs Committee*

The oversight committee reached a consensus to support this bill. There was discussion among the committee members regarding details of the legislation, specifically the grade point average required of scholarship holders. It is hoped that the sponsors of this bill might take into consideration the difficulty of the subject matter and the barriers faced by students working while attending classes.

SB 732 Senator Hollinger, et al Labor and Employment - Nurses - Involuntary Overtime Prohibition Prohibiting an employer from requiring a nurse to work more than 8 hours in a workday or 40 hours in a workweek; authorizing an employer to require a nurse to work up to 10 hours in a day or part or all of a succeeding work shift in limited circumstances; providing that a nurse may not be considered responsible for the care of a patient beyond the nurse's prescribed work period if the nurse notifies another nurse and transfers his or her responsibility for a patient's care to a properly designated individual; etc. *LE, §§ 3-421-added Assigned to: Finance Committee*

The oversight committee takes no position on this bill. The proposed legislation covers institutions beyond the purview of this committee. The scope of this bill is beyond nursing facilities.

SB 769 Senator Collins Nursing Staff Agencies - Quality Oversight and Improvement Transferring oversight of nursing staff agencies from the Board of Nursing to the Office of Health Care Quality; providing for the registration of nursing staff agencies with the Office; requiring the Office to conduct periodic site visits and surveys of nursing staff agencies; requiring the Office to ensure that specified procedures are used in each nursing staff agency; providing for the fines to be assessed on nursing staff agencies; etc. *HG, §§ 19-2001-amended and §§ 19-2002-added Assigned to: Rules*

The oversight committee supports this bill.

2/16/01

Oversight Committee on Quality of Care in Nursing Homes

Meeting 05/31/01

Members Present: Secretary Ward; Senator Hollinger; Delegates Boutin, Hammen, Klausmeier and Nathan-Pulliam; Carol Benner; Elizabeth Boehner; Margaret Bradford; Elliott Cahan; Melanie Cox; Charles Fisher; Margaret Richards; Marjorie Taylor

Staff Present: Shirley Devaris, Mike Lachance, Stephanie Garrity

Handouts: Agenda 5/31/01; Nursing Home Task Force Report, 12/99

Secretary Ward opened the meeting by thanking Levindale Hebrew Geriatric Center and Hospital for their kind hospitality in hosting the Oversight Committee meeting.

Nursing Home Task Force Recommendations – Review and Update

Carol Benner reported on the progress made by the Office of Health Care Quality on relevant Task Force recommendations. A copy of the report is attached. Concern for the safety of the wage pass-through dollars outlined in Recommendation 2.4 were echoed by several committee members. Senator Hollinger reported that she has resigned from the Crisis in Nursing Commission. Discussion ensued regarding the nurse practitioner role in long term care. It was suggested that the Oversight Committee study this and other nurse work force issues (Recommendations 3.1-3.10), make recommendations and visit a facility that utilizes nurse practitioners. Melanie Cox agreed to arrange for the Oversight Committee to visit a Future Care site that uses nurse practitioners. Delegate Boutin wants to meet again to look exclusively at this issue in preparation for the 2002 General Assembly session. Ms. Benner, in briefing the Oversight Committee on recommendation 4.1, stated that the starting salary for nurse surveyors was increased to \$40,000 per year with a 3% increase in January 2002. A signing bonus of \$3000 is being offered as well. Ernie Crofoot suggested that some of the dollars used to train medical students be reallocated to train nursing students.

Stephanie Garrity reported on progress made by The Maryland Department of Aging on Recommendations 6.1 through 6.4. The first round of State Ombudsman Initiative funds was awarded to Baltimore County and Prince George's County Departments of Aging and to MAC, Inc., the Area Agency on Aging serving Dorchester, Somerset, Wicomico and Worcester Counties. Charles Fisher (Baltimore County and Margaret Bradford (MAC, Inc.) briefed the Oversight Committee on their use of funds to date. The second round of funds will be awarded after July 1, 2001. Manuals for both the Ombudsman and Ombudsman Volunteer curricula are currently in development. The Department is in the process of developing a checklist for residents and families to use to assess resident care. Legislation was introduced to, in part, allow ombudsmen to advocate for confused residents without surrogates in non-abuse matters. It was amended out of the legislation.

Public Comment

Delegate Boutin introduced a constituent, Ms. Fran Wyre, who spoke about the care her aunt received at an assisted living Facility (see attached letter). She requested that "the legislature enact a law to force all elderly care facilities to provide the family with information on who to contact when a family has a concern about care". She wants each

facility to "provide a 'chain of command' with telephone numbers and names all the way to the State Licensing Board level". Several committee members asked questions about the role of Adult Protective Services in this situation. Secretary Ward suggested that representatives from Adult Protective Services at DHR be invited to the next Oversight Committee meeting to more clearly define their role in nursing homes and assisted living facilities.

Future Agenda Items

It was decided to table this until the next meeting.

Next Meeting

No date was set for a subsequent Oversight Committee meeting.

Nursing Home Oversight Committee Meeting 09/25/01

Members Present: Secretary Ward; Senator Collins; Delegates Boutin, Hammen, Klausmeier and Nathan-Pulliam; Carol Benner; Elizabeth Boehner; Elliott Cahan; Murt Foos; Peg Richards and Marjorie Taylor

Staff Present: Mike Lachance, Stephanie Garrity

Handouts: Agenda 9/25/01; Minutes from 5/31/01 Oversight Committee Meeting; Office of Health Care Quality Report to the Nursing Home Oversight Committee (5/31/01); Constituent letter about assisted living; Department of Health and Mental Hygiene Report on the Status of Medicaid Reimbursement for Nursing Home Services (Power Point slides); written testimony from Sr. Karen McNally, RSM; HFAM and MANPHA positions on proposed Medicaid reimbursement changes; New York Times article; MD Health Care Cost Commission Report on the Nursing home Report Card (Power Point slides).

Secretary Ward opened the meeting by acknowledging Levindale for their hospitality on 5/31/01. She thanked Delegate Boutin for consenting to defer his agenda item on the nurse practitioner legislation until a future meeting. She also thanked the Oversight Committee for their continued dedication. She was very pleased with the outcome of the 5/31/01 meeting in that most of the Nursing Home Task Force recommendations have been implemented.

Nursing Home Report Card

Enrique Martinez-Vidal from the MD Health Care Commission (MHCC) demonstrated their nursing home report card web site to the Committee. The web site was made public in August, 2001. Mr. Cahan asked about the timeliness of the information on the report card site and Mr. Martinez-Vidal stated that the site would be updated every six months. A brochure to publicize the web site will be launched in January 2002. Ms. Taylor asked why staffing ratios were not included in the Quality Indicators section. Mr. Martinez-Vidal stated these numbers were difficult to quantify (different staffing needs for different shifts; no credible data telling us what is an appropriate staffing pattern) so MHCC included staffing ratios in the consumer check list to encourage families to ask this question when they visit facilities. Future plans for the site include an advanced search using clinical indicators and using CMS-prepared quality indicators that are adjusted for risk (quality of care vs. the number of very sick people per facility). There are also toll free phone numbers that people can call if they can't access the web site. However, these numbers will give information on specific nursing homes only and not the entire web site. Currently, there are 200 separate users of the site per day. A hospital report card will be issued in January 2002. Mr. Martinez-Vidal would be happy to report to the Committee again in 2002 on web site enhancements.

Report by The Office of Health Care Quality (OHCQ)

Carol Benner reported that all Nursing Home Task Force recommendations that were charged to the Department of Health and Mental Hygiene (DHMH) have been completed. There are still 15 vacant surveyor positions that need to be filled. Two full surveys per year per facility will be completed by December, 2001. Additionally, OHCQ has begun

to distribute a series of critical alerts to nursing homes and hospitals. The first will consist of alerts about Coumadin, a drug that is a primary source of medication errors. There are also 165 nursing home "outliers" who were sent letters with a request for their plans to reduce restraints, pressure sores and contractures. It was then noted that the NY Times ran an article about dramatic changes in the nursing home survey process which Ms. Benner stated will not occur. However, The Centers for Medicare and Medicaid Services may look at changes to the survey process.

Annual Report on Status of Medicaid Nursing Home Reimbursement System

Debbie Chang and Mark Leeds from DHMH reported on the status of the current Medicaid nursing home reimbursement system. Ms. Chang began by stating that in FY 2000 there was a \$124 million Medicaid Nursing Home Program deficit and a deficit of \$50 million in the Nursing Home program for FY 2001. A deficiency appropriation "fixed" the problem in FY2000 and internal changes to control growth "fixed" the deficit in FY2001. There is a projected deficit of \$33 million in the Medicaid Nursing Home Program for FY2002. Ms. Chang said that Medicaid is not looking to propose a change in the maximum reimbursement rate in the nursing cost center but she is recommending three reimbursement changes. Change #1 - Medicaid is looking at an earlier recovery of any "unspent" funds as 165 facilities have not spent all their funds to date. Usually, recovery of unspent funds occurs during cost settlement, which for FY2002 will not happen until 2004. Change #2 - Medicaid proposes to reduce the available profit in both the nursing cost center and the administrative cost center. Change #3 - In the capital cost center, Medicaid will decrease the facility equity rate from 8.9% to 7.5%. Even with these changes, Ms. Chang said that the growth rate for nursing home payments this year would increase by 11%.

Mr. Leeds informed the Committee of the following: 1) the nursing cost center constitutes 52% of the Medicaid reimbursement; 2) costs have drastically increased in the nursing cost center due to increased wages paid to staff and the increase in the use of agency staff; 3) some nursing homes are not spending funds on quality of care and 4) proposing reductions in available profit would occur only to those not spending all the funds on nursing and would occur in both the nursing and administrative cost centers. Ms. Chang said that these changes, in the form of emergency regulations, will be submitted to AELR and should not negatively impact quality of care.

Elliott Cahan then presented the industry's response, suggesting that DHMH needed to address the following issues: 1) create a long range plan to deal with cost containment; 2) look at a cap on agency costs relative to the 75% rule; 3) work with the Insurance Administration regarding liability; 4) investigate estate planning that skirts Medicaid rules; and 5) address delays in determining financial eligibility for Medicaid at local Departments of Social Services.

At this point, Secretary Ward requested that the meeting be extended to hear others present who had requested to speak. Some committee members had to leave but the remaining agreed stay. Senator Collins asked Ms. Chang if there is a long term plan set

up to deal with these projected deficits. Ms. Chang said yes and that if providers can show they are spending all the funds then the appropriate rate adjustment will be taken.

Peg Richards from Johns Hopkins Hospital read a statement from her auditors and asked several questions for clarification regarding cost centers.

Delegate Boutin asked , "Why would people want to go into this business if Medicaid takes away their profit?"

Del. Hammen then requested Adam Kane from the Mid-Atlantic Non-Profit Health and Housing Association (MANPHA) to address nursing home industry issues related to profit centers. Mr. Kane stated that often "profit" goes to cover costs in other cost centers. Delegate Hammen suggested the industry should come up with an action plan for how they will spend the new money and forward the plan to Medicaid. He then asked for re- clarification of the three changes: 1)decreased profit, 2)capital cost center equity rate reduction and 3) earlier recovery. He asked why a decrease in profit is being looked at as a solution. Mr. Leeds responded that the current rate of growth is unsustainable.

Delegate Hammen said that Medicaid should give more time to the industry to come up with an action plan for spending the new money. Ms. Chang responded that they do want to have nursing homes spend the monies on quality of care but if they don't, the funds should be recovered.

Public Comment

Dr. Elon, who was scheduled to speak about the medical director regulations, was called but she had to leave prior to her presentation.

Mark Woodard from the Health Facilities Association of MD introduced Sr. Karen McNally from Stella Maris who said that the nursing shortage is the biggest problem. Stella Maris must remain competitive with salaries and benefits.

Paul Bach from Genesis ElderCare suggested that the nursing homes needed more time spend the new monies.

Larry Ginsburg representing SEIU 1199 introduced Deborah Odom, a CNA/GNA at Ravenwood for the past 12 years, who addressed the issue of the need for more staffing. Mr. Ginsburg then asked how these proposed cuts were not going to effect resident care. More time is required to slow this process down. He also asked about having a committee hearing before any cuts are enacted. Committee member Murt Foos agreed.

Adele Wilzack from HFAM said that the current Medicaid reimbursement system has been studied and deemed appropriate.

Secretary Ward then apologized to those who did not have time to speak. The meeting was adjourned at 12:50 p.m.

Nursing Home Oversight Committee Meeting 11/15/01

Members Present: Secretary Ward, Delegates Boutin and Hammen, Margaret Bradford, Elliott Cahan, Melanie Cox, Murt Foos, Margaret Richards and Marjorie Taylor

Staff Present: Pat Bayliss, Stephanie Garrity, Robyn Kaplan, Mike Lachance, David Smulski, and Fran Stoner

Handouts: Highlights from 9/25/01 Oversight Committee Meeting, Agenda for 11/15 01 Committee Meeting, DHR Adult Protective Service information folder, DHMH Proposed Modification to Reimbursement for Nursing Home Services, Testimony to Committee by Sr. Karen McNally, Letter from Ralph Jaffe, Letter to Delegate Boutin from Mariner Health.

Secretary Ward opened the meeting with introductions of members and staff. Please submit any additions or corrections to the highlights from the 9/25/01 Oversight Committee meeting to Stephanie Garrity.

Adult Protective Services and Its Role in Nursing Homes and Assisted Living Facilities

John Kardys and Yvonne Batson from the Department of Human Resources (DHR) presented an overview of Adult Protective Services (APS) - its organizational structure and function. APS is housed within the Community Services Administration of DHR. The purpose of APS is to "prevent or remedy neglect, self-neglect, abuse of financial exploitation of adults who are unable to protect their own interests and are at risk of immediate harm". There is a hot line directing callers to the appropriate local Department of Social Services office, where APS investigations are initiated. Ms. Batson included in the handout materials a list of all local programs and the regulation changes which have occurred relative to the Assisted Living Facilities (ALF) (Reg.#27).

Prior to Reg. 27, APS responded to community and small group home concerns. Now they are responsible for investigating abuse and neglect for all ALFs in addition to community-based investigations. They share the ALF responsibilities with the Ombudsman Program and DHMH Office of Health Care Quality (OHCQ). OHCQ and the Ombudsman Program also respond to similar concerns in the nursing homes. The incidents of financial abuse are on the increase. Attorney General Curran took the lead in changing Maryland law to allow banks to be able to report suspected financial exploitation. APS can now get that information. Such exploitation in nursing homes is reported to the Ombudsman Program and to OHCQ.

Last year, APS had 3,255 reports and 1,715 cases were investigated and validated. Melanie Cox asked who should be contacted if a nursing home resident is on a Leave of Absence or has been discharged and there is suspicion of abuse. Ms. Batson said that safety issues for discharges should be the responsibility of the facility discharge planner but that when in doubt, DSS should be contacted. Margaret Bradford asked who files petitions for public guardian. The responsibility lies with either the hospital or nursing home to petition. Guardianship should be absolutely the last resort. Ms. Bradford brought up the issue that some nursing homes and hospitals do not have the expertise to

file and may need some training. John Kardys stated the reason for the petition has to be carefully documented and be appropriate. Delegate Boutin suggested that the petition is relatively easy and perhaps could be put on the computer for accessibility. The Maryland State Bar Association has forms on disk.

Financial exploitation is a growing problem. Questions were raised about how far the banking institutions can go to insure that older people don't get taken. Secretary Ward suggested that representatives from the banking industry and the Attorney General's Office attend a future Oversight Committee meeting to discuss this issue as well as highlight Project Safe. Delegate Mandel is re-submitting a bill to strengthen the penalty for exploitation.

Update on Status of Medicaid Nursing Home Reimbursement System

Mark Leeds and Susan Tucker from DHMH gave an update on the status of the Medicaid nursing home reimbursement system. He said that \$ 19 million could be saved by:

1. Accelerating recovery of unspent funds from nursing homes;
2. Reducing the amount of profits allowed in nursing cost center for those facilities that have not been spending in this cost center;
3. Reducing the profit in the administration and routine cost centers and
4. Reducing the rate of return paid on provider's equity.

Mr. Leeds noted that funds under SB 794 are not impacted. A survey has been initiated to all nursing homes requesting a review of cost centers and current expenditures to see what is happening with the profits. DHMH has submitted emergency regulations to do accelerated recovery while holding off Items 2,3 and 4 pending the results and analysis of the surveys. Delegate Boutin questioned how the facilities would pay back Medicaid at cost settlement.

Status of the Medicaid Nursing Home Reimbursement System – An Industry Perspective

Secretary Ward then introduced representatives from the organizations that were not able to respond at the last meeting due to time constraints. Mark Woodard, Sr. Karen McNally and Paul Bach were introduced. Sr. McNally from Stella Maris presented a fact sheet showing reasons for opposition to DHMH's changes to the reimbursement system. She cited higher acuity needs, staff shortages, decrease in agency and contract personnel, increased liability costs and renovations of older buildings as reasons to keep the current reimbursement system intact. To recoup funds from nursing homes would jeopardize the stability of long-term care facilities to provide quality of care to frail residents. Mr. Bach from Genesis spoke about the economic crisis in long term care and reviewed how his corporation is providing in-house training programs, offering bonus packages and nursing scholarships in order to stabilize nursing positions. All of these projects, combined with the increase in acuity levels, increase the cost of care. Mr. Bach said that DHMH should

take the following into consideration before they change any reimbursement system: 1) the acuity level of nursing home residents, 2) the length of time it takes for Medicaid to pay the nursing home and 3) the age of the physical plants.

New Proposal

Delegate Hammen wants the nursing home industry to "reinvent itself". "We are not prepared to provide long term care for baby boomers". He suggested a new proposal to reconvene the Nursing Home Task Force sub-committees and charge them to create new ideas to meet the challenge of an aging future. He feels that two areas should be explored: 1) systems – both regulatory and financial and 2) innovations in quality of care.

All committee members present agreed with Delegate Hammen's proposal. Del. Boutin supported the reconvening of the committees but did express a concern about the quality of care for seniors in this country when we can indeed fund felons but find it difficult to find funding for seniors. Ms. Taylor expressed her thoughts on how some providers struggle with the increase in wages and quality of care. They have to compete with agency/contractual staff agencies that pay larger wages and then may not provide the quality of care needed. Ms. Richardson also agreed with reconvening but indicated that the committees should address solutions not merely identify problems, which was already done. Secretary Ward asked that names of creative thinkers may be submitted to Stephanie Garrity before the next Task Force Meeting.

Nurse Practitioner Legislation from 2001 General Assembly Session

Delegate Boutin wants Senator Hollinger's opinion on whether on not to revisit this legislation. Stephanie Garrity will follow up with Senator Hollinger's office.

Public Comment – Other Issues

Secretary Ward suggested that the committee members read a letter received from Mr. Ralph Jaffe. His letter addresses staffing ratios. Secretary Ward is not inclined to write the letter requested but does not disagree with its goals. Ms. Taylor stated that Mr. Jaffe's suggestions for staff to patient ratios are not consistent with National Citizen's Coalition for Nursing Home Reform (NCCNHR) guidelines (6:1, 10:1, and 15:1) and adjustments should be based upon acuity levels.

The next meeting will be on Thursday, Dec. 20th, 10:00a.m. to 12 Noon in the same location.

The meeting was adjourned at 11:45 a.m.

Update on Implementation of the Task Force Recommendations

December 15, 2001

1.1	Continue Oversight Committee to monitor implementation of recommendations.	Completed and implemented.
1.2	Require OHCQ to report twice a year to Oversight Committee on status of recommendations.	Ongoing. First report in May 2001. Second report in September 2001.
1.3	Develop nursing home report card.	Completed. Report card is on the web at www.mhcc.state.md.us . The MD Health Care Commission continues to make improvements to the web site.
2.1 2.2 2.3 2.4	Increase staffing ratios in nursing homes and institute wage pass-through. Recommendation changed to increase funding for reimbursement.	Completed and implemented.
2.5	Allow DHMH to set staffing ratios when appropriate.	Completed and implemented.
2.6	Require nursing homes to post staffing.	Completed and implemented.
3.1 to 3.10	Establish coalition of stakeholders to study nursing shortage and other issues related to work force.	Ongoing. Nursing Commission appointed. Deliberations in progress.
4.1	Ensure sufficient staff for OHCQ to conduct surveys.	Completed. Implementation in progress. Legislature has authorized 40 new surveyor positions. There are currently 15 vacancies. This is directly related to the nursing shortage and, most recently, the hiring freeze.

4.2	Hire surveyors with long term care experience.	Many recent hires have LTC experience.
4.3	Upgrade OHCQ surveyor classification.	Completed and implemented.
4.4	Allow OHCQ to required directed plan of correction.	Completed and implemented.
4.5	Public disclosure of all survey reports.	As of July 1, 2001 all survey reports are on both OHCQ and MHCC web sites. There will be a 90 day lag to provide for dispute resolution
4.6	Require nursing homes to notify families of the danger of closure.	Completed and implemented.
4.7	Require more stringent criteria for acceptance of plan of correction.	
4.8	Establish a minimum time period between surveys to ensure sustained corrective action.	Completed and implemented.
4.9	Require 4 unannounced visits per nursing home per year. Recommendation changed to require 2 surveys per year.	By the end of 2001, one full survey cycle will be completed for all nursing homes.
4.10	Revise civil money penalty statute to allow for more effective use of fines.	Completed and implemented. Grants have been given to promote Pets on Wheels and the Wellspring Project and to continue Family Council Project.
4.11	Impose fines for certain types of deficiencies.	Completed and implemented.
4.12	Establish a special fund for monetary penalties.	Completed and implemented.
4.13	Permit use of state-appointed monitors.	Completed and implemented.

4.14	Develop regulations for financial performance.	Completed and implemented.
4.15	Require 7 days notice to families prior to quarterly care planning conferences.	Has always been a requirement.
5.1	Define role of medical director.	Completed and implemented in August 2001.
5.2	Require medical schools to include geriatric training.	
5.3	Require medical directors to have geriatric training.	Completed and implemented in August 2001.
5.4	Support automation of paperwork and charting through partial reimbursement for automation systems approved by DHMH.	Provision in statute.
5.5	Require each nursing home to hire full-time QA professional. Recommendation changed to require designation of individual to coordinate QA activities.	Completed and implemented.
5.6	Establish technical assistance unit in OHCQ.	Funding available July 1, 2001. Implementation underway. Three Quality Indicators have been evaluated by OHCQ. Outliers have been notified and improvement plans requested. One position was lost to cost containment and one position remains vacant because of the current hiring freeze.
5.7	Require Board of Nursing Home Examiners to require in-service training every two years.	

6.1	<p>Establish and fund minimum staffing ratios for Ombudsman Program at the higher of:</p> <ul style="list-style-type: none"> a) One FTE Ombudsman per 1,000 long term care beds or b) 20 hours Ombudsman time per week per Area Agency on Aging or c) 10 hours Ombudsman time per week per nursing home. 	Completed. In second fiscal year of implementation.
6.2	Promote use of ombudsman volunteers, friendly visitors and consumer advocates.	Ongoing and as local ombudsman programs bring on new staff to recruit and manage volunteers.
6.3	Require Department of Aging to develop a checklist for residents and families to assess resident care.	In process.
6.4	Allow ombudsman to advocate for confused residents without surrogates in non-abuse matters.	Was amended out of legislation.
6.5 and 6.6	Require standards for family councils.	Bill proposed in 2001 Legislature. Failed in committee.